



Auditor of Public Accounts
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Edelen Releases Audit of Magoffin County Sheriff's Tax Settlement

FRANKFORT, Ky. – State Auditor Adam Edelen today released the audit of the sheriff's settlement – 2011 taxes for Magoffin County Sheriff Carson Montgomery. State law requires the auditor to annually audit the accounts of each county sheriff. In compliance with this law, the auditor issues two sheriff's reports each year: one reporting on the audit of the sheriff's tax account and the other reporting on the audit of the fee account used to operate the office.

The audit found that the sheriff's financial statement fairly presents the taxes charged, credited and paid, for the period May 16, 2011 through May 15, 2012, in conformity with the modified cash basis of accounting.

As part of the audit process, the auditor must comment on non-compliance with laws, regulations, contracts and grants. The auditor must also comment on material weaknesses involving the internal control over financial operations and reporting.

The audit contains the following comments:

The Sheriff should comply with uniform system of accounts. The uniform system of accounts requires revenues to be recorded when received and expenditures be recorded when paid. The Sheriff did maintain a receipts ledger; however it was not detailed enough and should separate add-on fees from normal tax collections. The receipts ledger should be used to account for all receipts and then reconciled to the bank statements and monthly tax reports to determine that all receipts are accounted for properly. The Sheriff did not prepare a disbursement ledger or prepare bank reconciliations. Had these review and reconciling procedures been completed, then the school district would not have been overpaid approximately \$78,000 for February franchise reports. Also the bank balance when auditors began was \$100,834. Had the Sheriff's office been maintaining records properly, then all funds should have been expensed and the bank balance should have been minimal. During receipt testing, we noted the Sheriff's office was not familiar with the tax collection software and was unaware of the daily collections report that

should be used to account for daily collections. Also, they were unaware of add-on fees of \$51,988 that should have been paid to the 2012 fee account to run the office. We recommend the Sheriff's office comply with the uniform system of accounts and utilize the ledgers and reconciliation process to ensure districts are paid properly and timely as well as Sheriff fees be paid in order to fund the Sheriff's office.

Sheriff's response: Will be corrected.

The sheriff should make interest payments to the school and the fee account. The Sheriff did not distribute interest earned on tax collections to either the school or the fee account. KRS 134.140(2) requires the Sheriff to pay monthly "that part of his investment earnings for the month which is attributable to the investment of school taxes." KRS 134.140(4) requires the remaining monthly interest to be transferred to the Sheriff's fee account. The Sheriff should distribute the investment earnings at the same time as monthly tax collections. We recommend the Sheriff implement procedures to ensure the Sheriff pay the amount of interest due to the school and fee account on a monthly basis.

Sheriff's response: Will be corrected.

The annual settlement of tax collections should be timely prepared. KRS 134.192 requires each Sheriff to annually settle his tax accounts on or before September 1 of each year. Furthermore, the annual settlement shall be filed in the county Clerk's office approved by the governing body of the county no later than September 1 of each year. The settlement shall show the amount of taxes collected and disbursed for the county, school district, and all tax districts. The annual tax settlement was not presented to and approved by the fiscal court until September 24, 2012. We recommend the Sheriff's office comply with KRS 134.192 by timely preparing an annual tax settlement.

Sheriff's response: Has been corrected.

The Sheriff's office should report and distribute taxes collected by the tenth of each month. The Sheriff did not report and distribute taxes collected by the tenth of each month. KRS 134.191 requires the Sheriff's Office to report and distribute taxes collected by the tenth of each month. During the audit, auditors noted that no franchise taxes were distributed and all other taxes were not paid in a timely manner. We recommend that the Sheriff report and distribute taxes collected by the tenth of each month.

Sheriff's response: Has been corrected.

The Sheriff should distribute 10% add-on fees on a monthly basis. KRS 134.430(3) states the Sheriff shall be entitled to an additional ten percent (10%) for all delinquent taxes collected from the time the ten percent (10%) fee becomes applicable through the sale of the tax claims. This fee shall be added to the total amount due and paid by the person paying the delinquent tax bill and then distributed to the Sheriff's fee accounted monthly. The Sheriff collected \$51,988 for 10% add on fees for 2011 collections. We recommend the Sheriff pay add on fees as required.

Sheriff's response: Will be corrected.

The Sheriff should review franchise tax bills received from the County Clerk. We found 6 franchise tax bills that were prepared incorrectly by the County Clerk's office. The Sheriff should review all franchise tax bills before mailing to the taxpayer and any tax bills that are found with errors should be given back to the County Clerk to correct and reissue. Franchise tax bills were prepared incorrectly due to the following:

- Franchise telecommunications tax bills were calculated at the wrong tax rates.

In order to review and recalculate franchise tax bills, the Sheriff should do the following:

1. Obtain a copy of the certification from the Department of Revenue (from the Clerk's office). If it is an amended bill, obtain both the original certification and the amended certification to determine the difference to be billed.
2. Review the certification.
3. Review the tax bill to determine if all districts have been included with the proper assessments for both real estate and tangible. Remember, it is important that the correct assessments are applied to either real estate or tangible because tax rates are different for each.
4. Determine if tax rates are accurate based on the appropriate tax year.
5. After determining if tax rates are correct and assessments are correct, recalculate the tax bill.
6. If you receive an amended bill, you will have to determine the amounts due the districts for the amended amount collected. Determine the amended amount by taking the difference between the original certification and the amended certification. Recalculate the bill.
7. After collecting the taxes, include these amounts on the monthly report and distribute to the taxing districts.

Sheriff's response: Is corrected.

The Sheriff's office lacks adequate segregation of duties. The Sheriff's office lacked adequate segregation of duties for receipts and disbursements. The Sheriff has not implemented proper internal control procedures. Good internal controls dictate the same employee should not be handling receipts and disbursements, recording in the ledger, and preparing monthly reports.

Lack of oversight could result in misappropriation of assets and/or inaccurate financial reporting to external agencies such as the Department of Revenue and other taxing districts, which could occur but go undetected.

Additionally, because a lack of adequate segregation of duties existed and because the Sheriff did not provide strong oversight over the office, the following occurred:

- The Sheriff's office did not report and did not distribute tax collections timely to the taxing districts.

- The Sheriff's office did not distribute interest income timely to the school district.
- The Sheriff's office did not distribute add-ons fees timely.
- Franchise tax bills were not reviewed by Sheriff's office and were calculated using wrong tax rates.
- Tax Commissions were not calculate properly for Gas and Oil taxes for the state and county districts.

If the Sheriff cannot adequately segregate duties we recommend he implement compensating controls such as periodically performing surprise cash counts, reviewing the bank reconciliations, and comparing the daily deposits to the daily checkouts and the receipts ledger, reconciling any differences. In addition, the Sheriff could compare the monthly reports to the receipts and disbursements ledger for accuracy. Compensating controls that are performed should be documented by initialing and dating the bank reconciliations, bank deposits, daily checkout sheets, receipts and disbursement ledger, and reports.

Sheriff's response: Has been corrected.

The sheriff's responsibilities include collecting property taxes, providing law enforcement and performing services for the county fiscal court and courts of justice. The sheriff's office is funded through statutory commissions and fees collected in conjunction with these duties.

The audit report can be found on the [auditor's website](#).

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